

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### CHAPTER 300 - Resources

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#### **304.01.05P RETURN OF A TRANSFERRED RESOURCE**

If a transferred resource is returned to, or if compensation is received by, the institutionalized individual, the UV is no longer an issue or is reduced as of the date of the return. The resource or compensation is evaluated according to normal resource rules in the month of return. Any portion of a transferred resource that is not returned continues to count as UV which means the penalty period must be re-evaluated.

#### **304.01.05Q RECALCULATION OF A PENALTY PERIOD**

A penalty period must be recalculated from the month a portion of the resource is returned or additional compensation is received.

**Example:** A transfer of \$13,800.00 occurred in October 2008, resulting in a 3-month penalty period beginning with the month that LTC is requested or eligibility is determined. In January 2009, \$9,200.00 is returned to the institutionalized individual. The penalty period is then recalculated using the UV of \$4,600.00 transferred in October 2008. This results in a revised period of ineligibility for one (1) month beginning with the month that LTC is requested or eligibility is determined.

**NOTE:** If the resource is returned, normal resource rules apply in determining Medicaid eligibility.

#### **304.01.04R TRANSFER PENALTY INVOLVING SSI MONTHS**

The transfer penalty can be imposed during months that an individual receives SSI or is SSI eligible in a nursing home. Notices for SSI eligibles must not be sent verifying eligibility for nursing facility services until the possibility of any transfers have been developed.

**Example:** A Medicaid application is filed in July 2008 for an applicant who entered the nursing home in May 2008 as an SSI-eligible. SSI eligibility continued until July 31, 2008. A transfer, which occurred in May 2008, is discovered during the Medicaid application process and it results in a 6-month period of ineligibility. The penalty can be imposed for May 2008 through October 2008 even though the months of May 2008 through July 2008 are SSI months. This means no vendor payment will be authorized for the 6-month penalty period; however the individual is eligible for all other Medicaid services.

### NOTICE OF TRANSFER OF ASSETS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Case Name: \_\_\_\_\_  
Medicaid ID: \_\_\_\_\_

Anyone applying for or receiving long term care services in a nursing home or Home and Community Based Waiver is prohibited from transferring assets at any time during the 60-month period (5 years) before applying for Medicaid and during the time Medicaid is received. If assets are transferred, a period of ineligibility shall be charged which is equal to the number of months required to deplete the total uncompensated value based on the total value of all transferred asset(s) divided by the average cost of monthly nursing home care to a private pay patient as determined by the Division of Medicaid. The period of ineligibility begins when the recipient asks for coverage or is otherwise eligible for nursing home Medicaid.

Nursing home recipients under a transfer penalty will receive all services except payment to the nursing home for room and board. Eligibility cannot be established for a Home and Community Based Waiver (HCBS) recipient during the transfer period; therefore, the transfer must be outside the 5 year look-back period. This transfer of assets provision applies to assets transferred on or after February 8, 2006, as specified in the Deficit Reduction Act of 2005. Assets can be returned in full and the transfer will be erased. Returned assets will be evaluated according to ongoing resource rules.

**Listed below is specific information about assets transferred by the Medicaid applicant/recipient named above:**

Resource(s) transferred: \_\_\_\_\_  
\_\_\_\_\_

Uncompensated Value: \_\_\_\_\_

Period of Ineligibility for ☐ **Nursing Home Services** is \_\_\_\_\_ months and \_\_\_\_\_ days.

Beginning: \_\_\_\_\_ Beginning and end dates are subject to change. You will be

Ending: \_\_\_\_\_ issued a revised DOM-322 if any dates change.

## NOTICE OF TRANSFER OF ASSETS

☐ **HCBS Waiver Services** (application)

Beginning: \_\_\_\_\_

Ending: \_\_\_\_\_

Eligibility cannot start until after the  
60-month look back period.

☐ **HCBS Waiver Services** (transfer discovered after initial approval)

Beginning: \_\_\_\_\_

Ending: \_\_\_\_\_

If you wish to rebut the transfer charge, you must give us evidence that the individual intended to dispose of the resource(s) either at current market value or for other valuable consideration or that resource(s) were transferred exclusively for a purpose other than to qualify for Medicaid. You have ten days from the receipt of this notice to submit such evidence before final action is taken on the case. An undue hardship waiver may be requested by a client or the client's authorized representative. The facility in which the person resides may apply for a hardship waiver on behalf of the individual if the facility has the individual's consent, or their personal representative's consent. If you claim undue hardship, Medicaid will review on a case by case basis using established policy located in the Eligibility and Procedures Manual. The hardship waiver is not related to a hardship for the facility, but rather a hardship for the recipient. You have ten (10) days from the date of receipt of the notice to submit your rebuttal before action is taken on the case.

Medicaid Specialist: \_\_\_\_\_ Date: \_\_\_\_\_

## **DOM-322 DRA NOTICE OF TRANSFER OF ASSETS INSTRUCTIONS**

### **PURPOSE**

The purpose of this form is to give notice to a nursing home or HCBS client that a period of ineligibility exists as a result of a transfer of assets on or after February 8, 2006. DOM-322 informs the client/representative that a 10-day period is allowed in which rebuttal evidence may be presented. This form does not replace the advance notice which must be issued if the rebuttal is not successful.

### **INSTRUCTIONS**

The completed form must be submitted to the appropriate Bureau Director, Deputy, for approval prior to issuance to the client. . Prepare an original and 2 copies. The original is given or mailed to the client or representative and 1 copy is retained in the case record. The third copy is used as a tickler copy to hold for 12 days. Twelve (12) days allows mailing time. The client has 10 days from receipt of the notice to respond.

Enter the appropriate information pertaining to the transfer(s) being charged. List all specific resource(s) that were transferred. List the uncompensated value of the transferred resource(s). The uncompensated value is the difference between the fair market at the time of the transfer (less any outstanding loans, mortgages, or other encumbrances on the asset) and the amount received for the asset.

### **PERIOD OF INELIGIBILITY**

Check the appropriate box—Nursing Home Services, HCBS Waiver Services (application) or HCBS Waiver Services (transfer discovered after initial approval).

The beginning date for nursing home services is the first day of the month in which the recipient asked for coverage/or the first day of the month in which eligibility can be established.

The beginning date for HCBS waiver services the first day of the month in which the asset was transferred.

The ending date for nursing home services is the last day that was computed when dividing by the average cost of monthly nursing home care. This date may reflect a partial month penalty.

### **PERIOD OF INELIGIBILITY (Continued)**

The ending date for Community Based Waiver Services (application) is the last day of the month, 5 years after the transfer occurred. The transfer must be out of the 5 years look back period.

Example: Medicaid application date is 12-20-09.

The 5 year look back period is 12-1-04 through 12-31-09.

The transfer took place on 07-12-07.

The transfer was within the 5 year look back period.

The ending date would be 07-31-12. Any eligibility established after 07-31-12 would not include this transfer.

The ending date for Community Based Waiver Services (transfer discovered after initial approval) is the last day of the month that was computed when dividing by the average cost of monthly nursing home care. This date will not reflect a partial month penalty. If the calculation ends during the month, the penalty will extend to the last day of the month.

Example: Transfer took place on 08-10-2008.

Uncompensated value is \$50,000.00

\$50,000.00 divided by \$4600 equals 10.86 or 10 months

\$4600 times 10 months equals \$46,000

\$50,000 minus \$46,000 equals \$4,000

\$4,000 divided by \$151 equals 26 days

Since HCBS eligibility cannot start in the middle of the month, the penalty is a full 11 months.

The Medicaid Specialist must sign and date the form.